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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CRAIG THORNER,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No.:

**COMPLAINT and
JURY DEMAND**

**JURY TRIAL
DEMANDED**

Plaintiff Craig Thorner (“Thorner”), by his undersigned attorneys, as and for his Complaint against defendant Microsoft Corporation (“Microsoft”), says:

PARTIES

1. Plaintiff Thorner is a citizen of New Jersey and resides at 14 Stuyvesant Road, Brick, NJ 08723.

2. Upon information and belief, defendant Microsoft is a

corporation organized and existing under the laws of the State of Washington and maintains a place of business at One Microsoft Way, Redmond, WA 98052.

JURISDICTION

3. This is a civil action for the infringement of United States Patent No. 6,422,941 ("the 941 patent"), United States Patent No. 8,308,558 ("the 558 patent"), and United States Patent No. 8,328,638 ("the 638 patent").

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338, as it arises under the patent laws of the United States, 35 U.S.C. §1, *et seq.*

BACKGROUND

5. On July 23, 2002, the United States Patent and Trademark Office ("PTO") duly and legally issued the 941 patent, entitled "Universal Tactile Feedback System for Computer Video Games and Simulations." A true and authentic copy of the 941 patent is attached as Exhibit A.

6. On November 13, 2012, the PTO duly and legally issued the 558 patent, entitled "Universal Tactile Feedback System for Computer Video Games and Simulations." A true and authentic copy of the 558 patent is attached as Exhibit B.

7. On December 11, 2012, the PTO duly and legally issued the 638 patent, entitled "Method and Apparatus for Generating Tactile Feedback

Via Relatively Low-Burden and/or Zero Burden Telemetry." A true and authentic copy of the 638 Patent is attached as Exhibit C.

8. Plaintiff Thorner is a named inventor on, and the owner of all right, title and interest in and to, the 941, 558, and 638 patents.

9. The 941, 558, and 638 patents each generally relate to tactile sensation generators and methods of using such generators and to video gaming systems, software, controllers.

10. Defendant Microsoft manufactures and sells products that incorporate the claimed subject matter of the 941, 558, and 638 patents, including, but not limited to, the XBOX and XBOX 360 consoles, game controllers for those products, and game interface devices for personal computer gaming systems and video games.

11. Defendant Microsoft is not licensed under the 941, 558, or 638 patents, and is not authorized or permitted to manufacture, use, import, sell or offer to sell products incorporating the subject matter claimed in the 941, 558, and 638 patents.

COUNT I

12. Plaintiff Thorner repeats and re-alleges the allegations of paragraphs 1-11 as if fully set forth here.

13. In violation of 35 U.S.C. § 271, defendant Microsoft has

infringed and is continuing to infringe, literally and/or under the doctrine of equivalents, at least claims 1, 3, and 13 of the 941 patent by manufacturing, using, importing, selling and/or offering to sell its XBOX and XBOX 360 consoles, game controllers, personal computer game interface devices and video games, and/or by inducing or contributing to such infringement. A claim chart demonstrating Microsoft's infringement of claim 1 of the 941 patent is attached as Exhibit D.

14. Plaintiff Thorner has suffered and will continue to suffer monetary damages and irreparable harm as a result of defendant Microsoft's infringement of the claims of the 941 patent.

COUNT II

15. Plaintiff Thorner repeats and re-alleges the allegations of paragraphs 1-14 above as if fully set forth here.

16. In violation of 35 U.S.C. § 271, defendant Microsoft has infringed and is continuing to infringe, literally and/or under the doctrine of equivalents, at least claims 1-12, 15-17, 19-30, 35-37, 39-40, 42-49 and 51-52 of the 558 patent by manufacturing, using, importing, selling and/or offering to sell its XBOX and XBOX 360 consoles, game controllers, and personal computer game interface devices and video games, and/or by inducing or contributing to such infringement. A claim chart demonstrating Microsoft's infringement of

claim 1 of the 558 Patent is attached as Exhibit E.

17. Plaintiff Thorner has suffered and will continue to suffer monetary damages and irreparable harm as a result of defendant Microsoft's infringement of the claims of the 558 patent.

COUNT III

18. Plaintiff Thorner repeats and re-alleges the allegations of paragraphs 1-17 above as if fully set forth here.

19. In violation of 35 U.S.C. § 271, defendant Microsoft has infringed and is continuing to infringe, literally and/or under the doctrine of equivalents, claims 1-20 of the 638 patent by manufacturing, using, importing, selling and/or offering to sell its XBOX and XBOX 360 consoles, game controllers, and personal computer game interface devices and video games, and/or by inducing or contributing to such infringement. A claim chart demonstrating Microsoft's infringement of claim 1 of the 638 Patent is attached as Exhibit F.

20. Plaintiff Thorner has suffered and will continue to suffer monetary damages and irreparable harm as a result of defendant Microsoft's infringement of the claims of the 638 patent.

WHEREFORE, Plaintiff Thorner prays for judgment and relief against defendant Microsoft as follows:

A. That defendant Microsoft be held to have infringed, induced others to infringe, and/or contributed to the infringement of one or more claims of the 941, 558 and 638 patents.

B. That defendant Microsoft, its agents, servants, representatives, officers, directors, attorneys, employees, affiliates, assigns and all persons acting in concert with it, directly or indirectly, be preliminarily and permanently enjoined from infringing, inducing others to infringe and/or contributing to the infringement of the 941, 558, and 638 patents.

C. That plaintiff Thorner be awarded compensatory damages, including at least a reasonable royalty, for all infringement of the 941, 558, and 638 patents, together with interest and costs of suit.

D. That plaintiff Thorner be awarded his reasonable attorney's fees, cost and expense incurred in prosecuting this action.

F. That plaintiff Thorner be granted such other relief as is just and proper.

Respectfully submitted,

Dated: May 31, 2013

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Attorneys for Plaintiff
Craig Thorner

DEMAND FOR JURY TRIAL

Plaintiff Craig Thorner hereby demands trial by jury on all issues so triable.

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Attorney for Plaintiff
Craig Thorner

CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2

I hereby certify that United States Patent No. 8,308,558 and United States Patent No. 8,328,638 are not the subject of any other action pending in any other court.

I further certify that United States Patent No. 6,422,941 is the subject of the CRAIG THORNER et al. v. SONY COMPUTER ENTERTAINMENT AMERICA LLC et al., 3:09-cv-01894, currently pending in the United States District Court for the District of New Jersey and on appeal to the United States Court of Appeals for the Federal Circuit, Appeal No. 13-1329.

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